

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE BILAL NAZKI

and

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WVMP.No.1178 of 2005 in WPMP.No.1961 of 2005 in W.P.No.1468 of 2005,
WVMP.No.1173 of 2005 in WPMP.No.3127 of 2005 in WP.No.2326 of 2005,
WVMP.No.1174 of 2005 in WPMP.No.3140 of 2005 in WP.No.2329 of 2005,
WVMP.No.1162 of 2005 in WPMP.No.3141 of 2005 in WP.No.2330 of 2005 and

W.P.Nos.1468, 2326, 2329 & 2330 of 2005

WVMP.No.1178 of 2005 in W.P.No.1468 of 2005:

Between:

The Assistant Commissioner of Commercial Taxes (LDV) Nalgonda Division,
Nalgonda.

Petitioner

(Respondent No.1 in W.P.No. 1468 of 2005
on the file of the High Court)

AND

M/s. Deccan Cements Limited, Having its Registered Office at "Deccan Chambers",
6-3-666/B, Somajiguda, Hyderabad - 500 08
Rep. by its General Manager (Legal) and Company Secretary, Mr. R.
Gopalakrishnan, S/o. M. C. Ramamurthi,
Aged about 50 Years.

Respondent

(Petitioners/respondent No. 2 in -do-)

Petition under Section 151 CPC praying that in the circumstances stated in
the counter affidavit filed in the Writ petition No.1468 of 2005 ,the High court may be
pleased to vacate the Interim order of the High Court dated 07-02-2005 made in
W.P.M.P. No.1178 of 2005 in WPNO. 1468 of 2005

Counsel for the Petitioner: GP FOR COMMERCIAL TAX

Counsel for the Respondent: MR.S.RAVI

W.P.No.1468 of 2005

Between:

M/s. Deccan Cements Limited, Having its Registered Office at "Deccan Chambers",
6-3-666/B, Somajiguda, Hyderabad - 500 08
Rep. by its General Manager (Legal) and Company Secretary, Mr. R.
Gopalakrishnan, S/o. M. C. Ramamurthi,
Aged about 50 Years.

..... PETITIONER

AND

The Assistant Commissioner of Commercial Taxes (LDV) Nalgonda Division,
Nalgonda.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ direction or order especially in the nature of Writ of Certiorari by quashing the Assessment Order dated 19-01-2005 passed by the first Respondent as arbitrary, illegal and unsustainable and pass such other orders as this Hon'ble Court deems fit and proper.

Counsel for the Petitioner: MR.S.RAVI

Counsel for the Respondent: GP FOR COMMERCIAL TAX

WVMPNO : 1173 of 2005 in W.P.No. 2326 of 2005:

Between:

1 The Assistant Commissioner of Commercial Taxes (LDV), Nalgonda Division,
Nalgonda.

2 The Deputy Commissioner (CT), Nalgonda Division, Nalgonda.

Petitioner

(Respondent No.1 in W.P.No. 2326of2005
on the file of the High Court)

AND

M/s Deccan Cements Limited, Having its Registered Office at "Deccan Chambers",
6-3-666/B, Somajiguda, Hyderabad - 500 082 Rep. by its General Manager (Legal)
and

Company Secretary, Mr. R. Gopalakrishnan S/o M.C. Ramamurthi, aged 50 years.

Respondents

(Petitioners/respondent No. 2 in -do-)

Petition under Section 151 CPC praying that in the circumstances stated in the counter affidavit filed in the Writ petition No.2326 of 2005, the High court will be pleased to vacate the Interim order of the High Court dated and made in W.P.M.P. No.1173 of 2005 in W.P.No.2326 of 2005.

Counsel for the Petitioner: GP FOR COMMERCIAL TAX

Counsel for the Respondent: MR.S.RAVI

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W.P.No. 2326 of 2005

Between:

M/s Deccan Cements Limited, Having its Registered Office at "Deccan Chambers", 6-3-666/B, Somajiguda, Hyderabad - 500 082 Rep. by its General Manager (Legal) and Company Secretary, Mr. R. Gopalakrishnan S/o M.C. Ramamurthi, aged 50 years.

..... PETITIONER

AND

1 The Assistant Commissioner of Commercial Taxes (LDV),

Nalgonda Division, Nalgonda.

2 The Deputy Commissioner (CT), Nalgonda Division, Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, direction or order especially in the nature of writ of certiorari by quashing the Order of revision under section 20(2) of the APGST Act, 1957 dated 19-1-2005 passed by the Second Respondent for the assessment year 2001-2002 as arbitrary, illegal and unsustainable and pass such other order(s) as this Hon'ble Court deems fit and proper.

Counsel for the Petitioner: MR.S.RAVI

Counsel for the Respondent: GP FOR COMMERCIAL TAX

WVMPNO : 1174 of 2005 in W.P.No. 2329 of 2005:

Between:

The Assistant Commissioner of Commercial Taxes (LDV), Nalgonda Division,
Nalgonda.

Petitioner

(Respondent No.1 in W.P.No. 2329 of 2005
on the file of the High Court)

AND

M/s. Deccan Cements Limited, having its Registered Office at "Deccan Chambers",
6-3-666/B, Somajiguda, Hyderabad-500 082 rep., by its General Manager (Legal)
and
Company Secretary, Mr.R.Gopalakrishnan, S/o M.C.Ramamurthi, aged about 50
years.

Respondents

(Petitioners/respondent No. 2 in -do-)

Petition under Section 151 CPC praying that in the circumstances stated in
the counter affidavit filed in the Writ petition No.2329 of 2005, the High court will be
pleased to vacate the Interim order of the High Court dated and made in W.P.M.P.
No.1174 of 2005 in WPNO. 2329 of 2005.

Counsel for the Petitioner: GP FOR COMMERCIAL TAX

Counsel for the Respondent: MR.S.RAVI

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W.P.No. 2329 of 2005

Between:

M/s.Deccan Cements Limited, having its Registered Office at "Deccan
Chambers", 6-3-666/B, Somajiguda, Hyderabad-500 082 rep., by its General
Manager (Legal) and
Company Secretary, Mr.R.Gopalakrishnan, s/o M.C.Ramamurthi, aged about 50
years.

..... PETITIONER

AND

The Assistant Commissioner of Commercial Taxes (LDV), Nalgonda Division,
Nalgonda.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the
circumstances stated in the Affidavit filed herein the High Court may be pleased to
issue a writ, direction or order especially in the nature of writ of certiorari by
quashing the Assessment Order dated 19-01-2005 passed by the first respondent for

the Assessment Year 2002-2003 under the Andhra Pradesh General Sales-Tax Act, 1957 as arbitrary, illegal and unsustainable and pass such other order(s) as this Hon'ble Court deems fit and proper.

Counsel for the Petitioner: MR.S.RAVI

Counsel for the Respondent: GP FOR COMMERCIAL TAX

WVMPNO : 1162 of 2005 in W.P.NO.2330 of 2005:

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Between:

The Assistant Commissioner of Commercial Taxes (LDV), Nalgonda Division,
Nalgonda.

Petitioner

(Respondent No.1 in W.P.No. 2330of2005
on the file of the High Court)

AND

M/s.Deccan Cements Limited, having its Registered Office at "Deccan Chambers",
6-3-666/B, Somajiguda, Hyderabad-500 082, rep., by its General Manager (Legal)
and Company Secretary,
Mr.R.Gopalakrishnan, s/o M.C.Ramamurthi, aged about 50 years.

Respondent

(Petitioners/respondent No. 2 in -do-)

Petition under Section 151 CPC praying that in the circumstances
stated in the counter affidavit filed in the Writ petition No.2330 of 2005, the High
court may be pleased to vacate the Interim order of the High Court dated 16-02-2005
made in W.P.M.P. No.1162 of 2005 in WP.No. 2330 of 2005

Counsel for the Petitioner: GP FOR COMMERCIAL TAX

Counsel for the Respondent: MR.S.RAVI

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W.P.NO.2330 of 2005

Between:

M/s.Deccan Cements Limited, having its Registered Office at "Deccan
Chambers", 6-3-666/B, Somajiguda, Hyderabad-500 082, rep., by its
GeneralManager (Legal) and Company Secretary,
Mr.R.Gopalakrishnan, s/o M.C.Ramamurthi,

aged about 50 years.

..... PETITIONER

AND

The Assistant Commissioner of Commercial Taxes (LDV), Nalgonda Division,
Nalgonda.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, direction or order especially in the nature of writ of certiorari by quashing the Assessment Order dated 19-01-2005 passed by the first respondent for the assessment year 2003-2004 under the Andhra Pradesh General Sales Tax Act, 1957 as arbitrary, illegal, and unsustainable and pass such other order(s) as this Hon'ble Court deems fit and proper.

Counsel for the Petitioner: MR.S.RAVI

Counsel for the Respondent: GP FOR COMMERCIAL TAX

The Court made the following :

COMMON ORDER:

We have heard the learned Counsel for the parties.

Prima facie the orders passed and challenged in the writ petitions are appealable orders. Therefore, the stay granted by this Court cannot be continued, particularly, when there is a requirement of payment of certain amount for entertainment of appeal. From the impugned order, we have also found that there are various questions of fact, which will have to be gone into while deciding these matters. Since complicated questions of fact are involved, and an efficacious alternative remedy also is available to the petitioners, we vacate the stay.

WVMPs are accordingly dismissed.

For the same reasons, we also dismiss the writ petitions. The time for filing an appeal has already expired. But however, in the interest of justice, we grant two weeks to the appellant to file an appeal before the appropriate appellate authority.

(Bilal Nazki, A.C.J)

(G.Chandraiah, J)

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To

- 1. The Assistant Commissioner of Commercial Taxes (LDV)
Nalgonda Division, Nalgonda.
- 2 The Deputy Commissioner (CT), Nalgonda Division, Nalgonda.
- 3 Two Copies to G.P. for Commercial Tax, High Court buildings,
Hyderabad.(O.U.T.)
- 4 2 CD copies
- 5 1 CC to MR.RAVI